

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
FEBRUARY 8, 2006**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at 6:00 p.m. Committee members present were Charles Lapp, Kathy Robertson, Gene Dziza, Frank DeKort, Don Hines, Gordon Cross, Randy Toavs and Jeff Larsen. Kim Fleming had an excused absence. Kirsten Holland and Jeff Harris represented the Flathead County Planning & Zoning Office (FCPZ).

There were approximately 28 people in the audience.

**PUBLIC
REVIEW**

Larsen reviewed the public hearing process for the public. He went through the proper procedures of conducting and participating in a board meeting. He mentioned to the public to keep presentations and comments short, a maximum of (5) minutes.

**APPROVAL OF
MINUTES**

Robertson made a motion, seconded by Dziza to approve the December 14, 2005 meeting minutes as submitted. Both Cross and Toavs abstained from voting as they were not members of the Flathead County Planning Board at the December meeting.

The motion passed unanimously.

Robertson made a motion, seconded by Dziza, to approve the December 21, 2005 meeting minutes as submitted. Both Cross and Toavs abstained from voting as they were not members of the Flathead County Planning Board at the December meeting.

The motion passed unanimously.

**GUEST
SPEAKER**

Diana Blend updated the Board on the progress of the Long Range Planning Task Force.

**PRELIMINARY
PLAT/CROWN
JEWEL
ESTATES FPP-
05-36**

A request by Warren and Betty McConkey for Preliminary Plat approval of Crown Jewel Estates, a twenty-seven (27) lot (19 single-family and 8 town homes) residential subdivision on 40.0 acres, with a 117.18 acre remainder. All lots in the subdivision are proposed to have public water and individual septic systems. The property is located at 3855 Lower Valley Road. **THIS ITEM WAS PULLED BY THE APPLICANT.**

**PRELIMINARY
PLAT/HARBOR
VILLAGE AT
EAGLE BEND
PHASE 5 FPP-
05-81**

A request by Rocky Mountain Recreational Communities, LLC for Preliminary Plat approval of Harbor Village at Eagle Bend Phase 5 Town homes, a thirty-six (36) dwelling unit (18 duplex town homes) residential subdivision on 5.44 acres. All lots in the subdivision are proposed to have public water and septic systems. The property is located off Canal Street and Marina Way in Bigfork.

STAFF REPORT

Kirsten Holland reviewed Staff Report FPP-05-81 for the Board. She stated the variance application from the Board of Adjustment was approved on February 7, 2006.

Larsen asked Holland if the redesigning of the cul-de-sac needed to be addressed in the conditions?

Holland replied in Condition #1, Staff could add language stating that.

Lapp asked about addressing covenant issues from the public speakers.

Holland replied it wasn't her place to recommend denial over the ownership issue.

Cross asked if the project had been denied at the Bigfork Land Use Committee.

Holland replied, yes.

Robertson asked if each of these areas, with different developers, have different home owner associations as well?

Holland replied she does not know.

**APPLICANT
PRESENTATION**

Dan Manning showed a map of Harbor Village. In 1996 there was a Master Plan which designated this area residential. In 1999, the Master Plan showed the same residential area, and included town home lots. The town homes are fairly large, consisting of 36 units built to meet the minimum requirements, with 5 ft setbacks, 20 ft setbacks in back. He commented on how nice the development looks, pointing out club houses, canals, ponds, water features, and the fact that certain lots are on the water. The developer wanted to basically keep this area the same as surrounding establishments. He also mentioned they may have to redesign the cul-de-sac, and has plans to bring the Bigfork Fire Department to the site to get approval and any recommendations. He's trying to bring this land up to what is already at Harbor Village.

Brian Long, with Long Engineering of Kalispell, talked about the history of Eagle Bend West at Harbor Village. He passed out plat maps from the 1996 Master Plan, when Eagle Bend West was originally

started. The subject parcel is shown in Pod 6, which is residential. The Master Plan set this area aside for residential dwellings. In 1999 they went through a Preliminary Plat process, which was approved. All of the property around this proposed subdivision has already been developed, this proposal is to fill in phase 5, the last one. Long handed out a full legal description from FEMA indicating areas outside the floodplain. He showed where this property lies, and indicated flooding is not a concern.

Jim Berry, construction manager, stated they have 3 different town house units existing there now, ranging from 2200-3700 sq feet, utilizing the maximum use of the land. He also mentioned the developer intends to not have a lot of upkeep for the residents. They want to keep the same density they have had all along. He stated the developers had a choice not to put the water features in the middle, instead they could in fact add more units and still maintain all of the size/lot requirements, but that would not be very appealing and wouldn't fit with the rest of Harbor Village.

Paul Sandry with Johnson Law Firm has represented Harbor Village since 1996. He stated he could put the ownership issue to rest, and proceeded to hand out a title commitment to the Board showing the land, and subject of the application, is owned by the applicant. He showed a map to the Board indicating in 1997, Rocky Mountain Recreational Communities began to develop each parcel in accordance to these pod descriptions. Covenants were extensively reviewed by him and Citizens Title. He stated this property is not subject to the CC&R's. The area was to be a rally area set aside for the homeowners. He mentioned Rocky Mountain Recreational has not been served with a law suit regarding ownership of this property, and asked the Board to consider the application without reference to whether or not this property is subject to the CC&R's.

AGENCIES

None present.

**PUBLIC
COMMENT**

Sharleen Weese, PO Box 826 Bigfork, is opposed to this project. She asked Holland about emails Staff had received from property owners surrounding this proposal. Holland stated the letters and emails she had received focused mainly on the variance application, which was heard at the Board of Adjustment meeting the night before. The variance request was approved at that time. Weese stated she had sent out an email to her neighbors, asking to be authorized to indicate their properties, if they were opposed, on a plat map she created and handed to the Board. She put a red dot on each respondents property indicated on the map that were in opposition to the density of the project, having concerns with parking, congestion and traffic. Weese feels the property ownership is a legal issue and not for the Board to decide. She then showed advertisements, along with mailers from

Harbor Village, stating “Big Coach Country”, and reiterated this property was set aside for the homeowners to use as a rally area for their motor coaches.

Bob Smith, 321 Canal St, Bigfork. Supported what Weese said. He mentioned his concerns about the Canal Conservation Easement. He stated the Developer proposes a dock on the Conservation Easement, and stressed one dock serving thirty-six (36) homes could create a dangerous situation. He is also concerned with parking, as there is no over night parking allowed on the streets. He stated the road is not up to County standards, and is concerned with lighting.

Vince Rassmusin, 439 Grand Ave, Bigfork, is the current President of the Home Owners Association and is in favor of this project. He stated currently there are 175 lots, with less then 20 lots being devoted to motor homes. He commented about the issue addressed earlier regarding an attorney, and stated the Homeowners Association has dismissed the attorney and has no future plans to hire one. He also stated the majority of people he spoke with who were originally against this project, changed their minds once they heard all the facts and the new plans for this project. He then proceeded to read a letter from the Flathead County Planning & Zoning Office stating in an RC-1 zoning district, parking of coaches is not allowed.

Paula Smith, 321 Canal St. Bigfork, opposes the project until it is in compliance with the home owner covenants. She commented if the covenants apply to the homeowners, then they should also have to apply to the developer.

**APPLICANT
REBUTTAL**

Manning touched on the issue of the Conservation Easement. He stated he is aware of the easement and is only putting in one dock. He also stated he believes realistically the Conservation Easement is a homeowner association issue and the homeowners themselves are responsible for maintaining it. As far as the traffic and parking is concerned, he’s planning on having a single car garage per townhouse, with a space beside it on the property, not on the street. He mentioned he has not come up with a lighting scheme as of yet, and also touched briefly on the rental units which may be available in this subdivision.

MAIN MOTION

Dziza made a motion seconded by Hines to adopt Staff Report FPP-05-81 as findings of fact as amended and recommended approval to the County Commissioners.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

BOARD

Robertson stated some people were very hesitant about the original

DISCUSSION

plan, but since the revised plan has come out, she agrees it's very nice.

Cross is concerned with the conservation easement.

Dziza doesn't see town houses being out of character with this area. He also stated he doesn't think this project will diminish property value in the area.

DeKort agrees with Dziza. He has a little problem with the covenants, but again it is not this Board's concern.

Robertson can see one of these developments from where she lives and states the lighting can be really offensive. She also mentions that 'dark sky principles' are a bit of a theme in the valley. She commented she wishes people would think seriously about this issue in any development.

Larsen said he has a couple concerns with lighting, and asked the Board if there were any conditions the Board could apply.

Harris stated yes, we can place conditions on this proposal stating the lights must remain shielded downward, and the lighting on homes can not exceed a certain brightness.

Holland read a condition out of the zoning regulations which Staff places on conditions for Board of Adjustment proposals regarding lighting on the property.

Larsen asked about the canal conservation easement, and asked if the Board could do anything about placing conditions on that portion of the property.

DeKort replied he didn't think so.

Hines mentioned adopting the lighting standards the City of Kalispell has written, and referring to those standards for all projects going before the Board.

Larsen stated the Board needs to do a little work regarding the conditions. He asked if anyone wanted to make a motion in regards to these conditions.

Robertson asked Holland to read verbiage regarding the cul-de-sac.

MOTION

Robertson made a motion seconded by DeKort to change Condition #1

Condition #6 to Condition #6 and add the wording cul-de-sac in the access requirements.

ROLL CALL
Condition #6

On roll call vote the motion passed unanimously.

For Condition #15, Holland read the language from the Zoning Regulations regarding lighting.

Robertson commented she wanted the condition to include the phrase, 'shall incorporate dark sky principles'.

MOTION
Condition #15

Robertson made a motion seconded by DeKort to adopt her verbiage of incorporating dark sky principles to Condition #15.

ROLL CALL
Condition #15

On a roll call vote the motion passed unanimously.

OLD BUSINESS

Hines mentioned a request by property owners north of Hodgson Rd for some rezoning in the area. He asked if the 200 acre rule still applied to zone changes.

Harris stated the County Commissioners removed the 200 acre rule, it is no longer in the guide lines.

NEW BUSINESS

Debbie Biolo, owner of Midway Motors stated her business and those around her business property has existed in an area between Kalispell and Whitefish since the 1980's. She asked the Board to help differentiate those businesses in the new Growth Policy, as the properties are no longer in the Whitefish Planning Jurisdiction since the signing of the inter-local agreement. (1/25/05) Whitefish has classified the properties as Rural-AG in their Master Plan, with a 20 acre minimum lot size. She reiterated none of the businesses have 20 acres, nor are they rural. All of the businesses pay commercial property taxes. She thought it would be good to work with the Planning office staff, to have the County address this situation in the revision of the Growth Policy. The businesses would eventually need to apply for a zone change after going through the process of designating the area commercial.

Harris encouraged her to stay part of the process.

Cross doesn't think her situation is particularly unique. He strongly recommends as the Growth Policy is being revised, a lot of consideration be given to people in her same situation, and for the Planning staff not to sweep this issue under the rug. Non conforming use is not a good option for them.

Harris went through a draft agenda for the upcoming retreat on March 1, 2006. This will be held at the Vista Linda restaurant in Somers, from 3-7pm.

Hines mentioned there are three applications going before the City Planning Board at their next regular meeting. He'll report back at the next Planning Board meeting if something affects the County.

Harris mentioned he is trying to work out the details of having a joint Planning Board workshop with the Long Range Planning Task Force. He will let the Board members know when it is finalized.

Greg Stevens told the Board he advised Biolo five (5) yrs ago, when he was a member of the Flathead County Planning Board, to not bother trying to change the designation of those businesses until the Whitefish jurisdiction moves closer to town. He advised her to wait until the boundary jurisdiction had been changed. He also wanted to remind the Board the Master Plan is a guideline, not a law.

Russ Crowder asked the Board to take Staff recommendations with a grain of salt. He stated the Board needs to have all the facts in before going forward with a pre-conceived notion about any projects before them. He reminded the Board about previous administration in the Planning office supporting the 'no recommendations from staff' rule, and asked them to please be sure they hear from all agencies and public before making their decision about a proposal.

**BOARD
DISCUSSION**

None.

ADJOURNMENT

The meeting was adjourned at approximately 8:30 p.m. on a motion by Robertson seconded by Dziza. The next meeting will be held at 6:00 p.m. on March 8, 2006.

Jeff Larsen, President

Nikki Carrell, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 3/15/06